

# MAINE STATE LEGISLATURE

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# 117th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1995

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Legislative Document

No. 1067

S.P. 390

In Senate, March 28, 1995

**An Act to Require That a Vacancy in a County Office Be Filled by an  
Appointee from the Same Political Party.**

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Reference to the Committee on Legal and Veterans Affairs suggested and ordered printed.

A handwritten signature in cursive script that reads "May M. Ross".

MAY M. ROSS  
Secretary of the Senate

Presented by Senator FERGUSON of Oxford.  
Cosponsored by Senators: BEGLEY of Lincoln, MICHAUD of Penobscot.

2  
3 **Be it enacted by the People of the State of Maine as follows:**

4 **Sec. 1. 4 MRSA §301**, as amended by PL 1989, c. 104, Pt. C,  
5 §§8 and 10, is further amended to read:

6 **§301. Terms; vacancies; salary**

7 Judges of probate are elected or appointed as provided in  
8 the Constitution of Maine. Only attorneys at law admitted to the  
9 general practice of law in this State and resident ~~therein~~ in  
10 this State may be elected or appointed as judges of probate.  
11 Their election is effected and determined as is provided  
12 respecting county commissioners; and they enter upon the  
13 discharge of their duties on the first day of January following  
14 their election; but, when appointed to fill vacancies, their  
15 terms commence on their appointment. Vacancies must be filled as  
16 provided in the Constitution of Maine. In the case of a vacancy  
17 in the term of a judge of probate who was nominated by primary  
18 election before the general election, the judge of probate  
19 appointed by the Governor to fill the vacancy until a successor  
20 is chosen at election must be enrolled in the same political  
21 party as the judge of probate whose term is vacant. In making  
22 the appointment, the Governor shall choose from any  
23 recommendations submitted to the Governor by the county committee  
24 of the political party from which the appointment is to be made.

25 Judges of probate in the several counties shall are entitled  
26 to receive annual salaries as set forth in Title 30-A, section 2.

27 The fees to which judges of probate are entitled by law  
28 shall must be taxed and collected and paid over by the registers  
29 of probate to the county treasurers by the 15th day of every  
30 month following the month in which they were collected for the  
31 use of their counties with the exception of the fees provided in  
32 section 304, which shall must be retained by the judge who  
33 collects ~~the--same~~ those fees in addition to ~~his~~ the judge's  
34 salary.

35 **Sec. 2. 18-A MRSA §1-501**, as amended by PL 1989, c. 104, Pt.  
36 C, §§8 and 10, is further amended to read:

37 **§1-501. Election; bond; vacancies; salaries; copies**

38 Registers of probate are elected or appointed as provided in  
39 the Constitution of Maine. Their election is effected and  
40 determined as is provided respecting county commissioners by  
41 Title 30-A, chapter 1, subchapter II, and they enter upon the  
42 discharge of their duties on the first day of January following  
43 their election; but the term of those appointed to fill vacancies  
44 commences immediately. All registers, before acting, shall give  
45

2 bond to the treasurer of their county with sufficient sureties in  
the sum of \$2,500, except that this sum shall must be \$10,000 for  
4 Cumberland County. Every register, having executed such bond,  
shall file it in the office of the clerk of the county  
6 commissioners of his that register's county, to be presented to  
them at their next meeting for approval. After the bond has been  
8 so approved, the clerk shall record it and certify the fact  
thereon, and retaining a copy thereof, deliver the original to  
the register, who shall deliver it to the treasurer of the county  
10 within 10 days after its approval, to be filed in his the  
treasurer's office. Vacancies must be filled as provided in the  
12 Constitution of Maine. In the case of a vacancy in the term of a  
register of probate who was nominated by primary election before  
14 the general election, the register of probate appointed by the  
Governor to fill the vacancy until a successor is chosen at  
16 election must be enrolled in the same political party as the  
register of probate whose term is vacant. In making the  
18 appointment, the Governor shall choose from any recommendations  
submitted to the Governor by the county committee of the  
20 political party from which the appointment is to be made.

22 Registers of probate in the several counties shall are  
entitled to receive annual salaries as set forth in Title 30-A,  
24 section 2.

26 The salaries of the registers of probate shall must be in  
full compensation for the performance of all duties required of  
28 registers of probate. They may make copies of wills, accounts,  
inventories, petitions and decrees and furnish the same to  
30 persons calling for them and may charge a reasonable fee for such  
service, which shall-be-deemed is considered a fee for the use of  
32 the county. Exemplified copies of the record of the probate of  
wills and the granting of administrations, guardianships and  
34 conservatorships, copies of petitions and orders of notice  
thereon for personal service, appeal copies and the statutory  
36 fees for abstracts and copies of the waiver of wills and other  
copies required to be recorded in the registry of deeds shall-be  
38 deemed-to-be are considered official fees for the use of the  
county.

40 ~~Nothing-in-this~~ This section may not be construed to change  
42 or repeal any provisions of law requiring the furnishing of  
certain copies without charge.

44 **Sec. 3. 30-A MRSA §63, last ¶**, as amended by PL 1989, c. 104,  
46 Pt. C, §§8 and 10, is further amended to read:

48 In the case of a vacancy in the term of a commissioner who  
was nominated by primary election before the general election,  
50 the commissioner appointed by the Governor must be enrolled in

2 the same political party as the commissioner whose term was is  
vacant. In making the appointment, the Governor shall choose  
4 from any recommendations submitted by the county committee of the  
political party from which the appointment is to be made.

6 **Sec. 4. 30-A MRSA §151, sub-§3**, as amended by PL 1989, c. 104,  
Pt. C, §§8 and 10, is further amended to read:

8  
10 **3. Vacancy.** If a person so chosen treasurer as provided in  
subsection 1 declines to accept or a vacancy occurs, the Governor  
12 may appoint a suitable resident of the county to serve as  
treasurer. When that person has accepted the office, provided a  
14 bond and been sworn, that person shall-be is treasurer until the  
first day of January following the next biennial election, at  
16 which election a treasurer shall must be chosen for the remainder  
of the term, if any; but, in any event, that person shall-held  
holds office until another is chosen and qualified.

18  
20 A. In the case of a vacancy in the term of a treasurer who  
was nominated by primary election before the general  
22 election, the treasurer appointed by the Governor must be  
enrolled in the same political party as the treasurer whose  
24 term is vacant. In making the appointment, the Governor  
shall choose from any recommendations submitted to the  
26 Governor by the county committee of the political party from  
which the appointment is to be made.

28 **Sec. 5. 30-A MRSA §252, sub-§2, ¶A**, as amended by PL 1989, c.  
104, Pt. C, §§8 and 10, is further amended to read:

30  
32 A. In the case of a vacancy in the term of a district  
attorney who was nominated by primary election before the  
34 general election, the district attorney appointed by the  
Governor must be enrolled in the same political party as the  
36 district attorney whose term was is vacant. In making the  
appointment, the Governor shall choose from any  
38 recommendations submitted by the county committee or  
committees of the political party from which the appointment  
is to be made.

40  
42 **Sec. 6. 30-A MRSA §371**, as amended by PL 1989, c. 104, Pt. C,  
§§8 and 10, is further amended to read:

44 **§371. Election or appointment; vacancies**

46 Sheriffs shall must be elected or appointed and shall hold  
their offices according to the Constitution of Maine. Their  
48 election shall must be conducted and determined as is provided  
for county commissioners. They shall take office on the first  
50 day of January following their election. Vacancies must be  
filled as provided in the Constitution of Maine. In the case of

2 a vacancy in the term of a sheriff who was nominated by primary  
4 election before the general election, the sheriff appointed by  
6 the Governor to fill the vacancy until a successor is chosen at  
8 election must be enrolled in the same political party as the  
sheriff whose term is vacant. In making the appointment, the  
Governor shall choose from any recommendations submitted to the  
Governor by the county committee of the political party from  
which the appointment is to be made.

10       **Sec. 7. 33 MRSA §601**, as amended by PL 1989, c. 502, Pt. B,  
12 §40, is further amended by adding at the end a new paragraph to  
read:

14       In the case of a vacancy in the term of a register of deeds  
16 who was nominated by primary election before the general  
18 election, the register of deeds appointed by the Governor must be  
20 enrolled in the same political party as the register of deeds  
whose term is vacant. In making the appointment, the Governor  
shall choose from any recommendations submitted by the county  
committee of the political party from which the appointment is to  
be made.

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#### STATEMENT OF FACT

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28       The purpose of this bill is to provide consistent treatment  
30 in the filling of vacant county offices and to establish a role  
32 for the county political party committees in that process.  
34 Current law requires vacancies in the offices of district  
36 attorney and county commissioner to be filled by a person from  
the same political party. This bill adds a similar requirement  
for the offices of sheriff, judge of probate, register of  
probate, county treasurer and register of deeds. The bill also  
requires that, in temporarily filling vacancies in the offices of  
district attorney, commissioner, sheriff, judge of probate,  
register of probate, treasurer and register of deeds, the  
Governor shall appoint a person from among recommendations made  
for that purpose by the county committee of the political party  
from which the appointment is to be made. That person would  
serve until an election can be held to fill the vacancy.

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